

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

In re: David Michael Hinton, Sr.

Case No. 13-73891-SCS

Debtor.

Chapter 13

Creditor: Alphonso R. Mebane

**MOTION TO ALLOW LATE FILING
OF PROOF OF CLAIM**

Under Local Bankruptcy Rule 9013-1, unless a written response to this motion and supporting memorandum are filed with the Clerk of Court and served on the moving party within Fourteen days of the service of this notice objecting to the relief requested, the Court may deem any opposition waived, treat the motion as conceded, and issue an order granting the requested relief without further notice or hearing.

To The Honorable Steven C. St. John:

COMES NOW, Alphonso R. Mebane, creditor ("Mebane"), by counsel, and moves this honorable Court for authority to allow the late filing of proof of claim, and in support thereof states as follows:

1. The debtor, David Micheal Hinton, Sr., filed his Chapter 13 Bankruptcy proceedings in this Court on October 16, 2013; and his Amended Plan was Confirmed on April 16, 2014.

2. The debtor and Mebane were business partners prior to the filing of this case. Mebane fronted the debtor his share (\$75,000.00) of the start-up capital when they and to others formed

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Focus One Development, LLC. Time passed and when the debtor was unable to pay Mebane the \$75,000.00, the debtor executed two Deeds of Trust on two properties that he owned in Suffolk and Accomack County, both properly listed in the debtor's Schedules A & D. See recorded Exhibits A (Deed of Trust on the two acre lot in Suffolk), and Exhibit B (the 30-50 acres of land in Accomack County).

3. On or about June 27, 2014, Mebane received a letter from debtor's counsel (Exhibit C); and without discussing the advisability of doing so, Mebane filed two Certificate of Releases for each of the respective properties in the appropriate Circuit Courts. Exhibits D & E.

4. Melbane is listed in paragraph 11 of the debtor's Chapter 13 Plan, and has filed a Proof of Claim, *pro se*, so he may share in any *pro rata* disbursement with all the unsecured creditors.

WHEREFORE, Melbane files this Amended Motion To File a Late Proof of Claim and respectfully request that the same be granted as requested so he may share in any *pro rata* disbursement with all the unsecured creditors.

Respectfully Submitted,

By: /s/ Kenneth A. Moreno
Of Counsel

CERTIFICATE

I hereby certify that on November 14, 2014, a true copy of the foregoing Motion was sent electronically or by regular mail to the Office of the U.S. Trustee, Room 625 Federal Building, 200 Granby Street, Norfolk, VA 23510; Michael P. Cotter, Chapter 13 Trustee, at 870,

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Greenbrier Circle, Suite 402, Chesapeake, VA 23320; and Matthew R. Hahne, attorney for the debtor at Convergence Center III, 272 Bendix Rd., Suite 103, Virginia Beach, VA 23452, and all creditors listed on the attached Matrix.

/s/ Kenneth A. Moreno

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